

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION**

UBS Financial Services, Inc.,

Plaintiff,

Civil Action No.: 6:17-cv-00607-MGL

v.

Banco Popular de Puerto Rico,
Mariel Babcock, Edward Walter Smith, in
his capacity as Personal Representative of
the Estate of Mark Richard Babcock,

Defendants.

TEMPORARY RESTRAINING ORDER

THIS CAUSE is before the Court pursuant to Defendant Mariel Babcock's Motion for Ex Parte Temporary Restraining Order and Preliminary Injunction (the "Motion") against Plaintiff UBS Financial Services, Inc. ("UBS"). This Court, having reviewed the evidence before it, hereby finds that Mariel Babcock has demonstrated some likelihood of success on the merits and GRANTS her Motion for a temporary restraining order and injunctive relief, enjoining and restraining any and all payments and asset transfers by UBS from the Mariel Babcock IRA Account ending in #BLXXX32, related to the March 2017 Order issued in the Commonwealth of Puerto Rico, Trial Court System, under Civil Case No. K CD2014-0784, styled as *Banco Popular de Puerto Rico v. Mark Richard Babcock t/c/c Richard Babcock Keene* (which Order is undomesticated in South Carolina).

The Court further finds as follows:

1. Mariel Babcock is the widow of Mark Richard Babcock and the sole owner of assets formerly held in his Mark Richard Babcock Traditional IRA FBO Mariel Babcock, account number ending in #BLXXX32, which account was opened in Greenville South Carolina and

administered by UBS in Greenville, South Carolina. Mariel Babcock became sole owner of the account assets at her husband's death on July 4, 2015. On or about July 23 and 24, 2015, the UBS IRA account assets of Mark Richard Babcock were transferred to the Mariel Babcock IRA Account ending in #BLXXX32.

2. Approximately one year after ownership transfer of the Mark Babcock UBS assets to his widow Mariel Babcock, Orders were issued (naming only Decedent Mark Richard Babcock), by the Puerto Rico Court in connection with an alleged old Puerto Rican foreclosure debt attributed to Ms. Babcock's deceased husband. Neither Mariel Babcock (the account owner) nor UBS (asset custodian) are named parties in those Orders; nor did they have any connection to the Decedent's old alleged debt.

3. The Puerto Rico Court subsequently issued a March 2017 Order of the Puerto Rico Court requiring UBS to pay to that Court from Mariel Babcock's South Carolina UBS IRA Account the amount of \$399,738.51 by Monday, March 13, 2017. The Order states "UBS is warned that it shall be subject to severe penalties if it does not comply with such order."

4. Unless immediately, temporarily and preliminarily enjoined by this Court, UBS will in compliance with the Puerto Rico Court's aforesaid March 13, 2017 Order deadline pay \$399,738.51 from Mariel Babcock's UBS Account, without Ms. Babcock's permission, causing her immediate and irreparable injury, loss, damage and harm, before responsive pleadings are due in this interpleader action and the parties appear in the normal course of that action.

5. As alleged in its Complaint for Interpleader (Dkt. 1), UBS may be subjected to multiple claims from multiple parties due to the improvidently granted Puerto Rico Court Orders seeking to garnish assets from Mariel Babcock's UBS account.

6. UBS and the Estate of Mark Richard Babcock consent to Mariel Babcock's Motion for temporary restraining order and associated injunctive relief.

7. Mariel Babcock has shown a substantial likelihood of success on the merits.

8. The Court has weighed the competing considerations and harms to the parties and determines that the harm to Mariel Babcock outweighs any potential harm to any other party caused by the entry of this Order temporarily preventing UBS' payment of assets from Mariel Babcock's account without her permission due to the undomesticated Puerto Rico Order.

9. Entry of temporary injunctive relief is in the public interest.

Accordingly, this Court ORDERS that:

A. UBS protect and preserve all assets in the Mark Richard Babcock Traditional IRA FBO Mariel Babcock, under account number ending in #BLXXX32 (this account is defined in the Complaint for Interpleader as the "Mariel Babcock IRA Account");

B. Any further proceeding in or operation of any existing garnishment Order in the case of Banco Popular de Puerto Rico v. Mark Richard Babcock t/c/c Richard Babcock Keene, filed in the Commonwealth of Puerto Rico, Trial Court System, under Civil Case No. K CD2014-0784, is hereby enjoined in South Carolina until further Order of this Court;

C. Mariel Babcock shall post security with the Clerk of Court in the amount of \$10,000 by 4:00pm on Tuesday, March 14, 2017. The Court determines this to be an appropriate amount to protect the interests of any party found to have been wrongfully enjoined or restrained; and

D. This Temporary Restraining Order is entered at 12:00pm on March 13, 2017, and shall remain in effect for (14) fourteen days or until the Court conducts a hearing on Mariel Babcock's Motion for Preliminary Injunction, whichever occurs first.

SO ORDERED, this 13th day of March 2017.

s/Mary Geiger Lewis
The Honorable Mary Geiger Lewis
United States District Court Judge